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09/817,779	03/26/2001	Luther Kenneth Alexander	AAM-3	7814

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EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No. 817 779	Applicant(s) Holder	
Examiner Silbermann	Group Art Unit 3611	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 7-17-03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 10 and 11-16 as dependent therefrom is/are allowed.
- ☒ Claim(s) 1-9 (11-16 as dependent) and 17 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Belgian reference #529,802.

3. The Belgian reference discloses two frame assemblies 2 having vertical support posts with a free end for temporary securement, flexible banner 4 located on one side of the frame assemblies, and elongated flexible elements 12 secured to the upper edge of the banner and which are passable over a portion of a frame assembly. Base pads 1 provide means for securing the frame assemblies to a support surface and the vertical support posts include sections 2 and 3.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Belgian reference.

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6. The Belgian reference does not include weights on the base pads, however, such weights are old and well known. The examiner takes official notice of weights used on umbrella stands and support posts for sports equipment (e.g. basketball hoops). It would have been obvious to a person having ordinary skill in the art to utilize such weights to keep the sign in the proper place.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Belgian reference in view of De La Cruz et al., US #4,906,503.

8. The Belgian reference is not clear as to whether the banner may be polymeric, however, such banners are well known. De La Cruz et al. teach a polymeric banner. It would have been obvious to one of ordinary skill in the art to utilize a polymeric banner so as to provide a banner that is weather resistant and will not tear easily.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Belgian reference in view of Fisher, US #965,097.

10. The Belgian reference does not teach the banner as being fabric, however, this is well known in the art. Fisher teaches a flexible display wherein the banner may be fabric. It would have been obvious to one of ordinary skill to utilize fabric in the device of the Belgian reference to provide a banner that may be stored compactly when not in use.

11. Claims 9, 11/9, 14/9, 15/9 and 16/9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Belgian reference in view of Born, US #1,751,614.

12. The Belgian reference does not teach rearward struts and lateral braces, however, these are well known in the art. Born shows a sign support including vertical

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supports 15, rearward support struts 18 and lateral braces 24 (each comprising one of several sections). It would have been obvious to one of ordinary skill to utilize such supports in the device of the Belgian reference so as to more securely support the display.

13. The Belgian reference teaches base pads, and it would have been obvious to use weights, as discussed previously.

14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Belgian reference in view of Doering, US #2,125,994.

15. The Belgian reference does not teach a windup assembly, however, such assemblies are well known. Doering teaches a sign that may be raised into position (opened) by windup assembly (shown generally in housing 33, Figure 2). It would have been obvious to one of ordinary skill to utilize such an assembly with the sign of the Belgian reference so as to provide a means for raising and/or lowering the sign, as is taught by Doering.

16. Claim 12/9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Belgian reference and Born as applied to claim 9 above, and further in view of De La Cruz et al.

17. It would have been obvious to utilize a polymeric banner for the same reasons as discussed above.

18. Claim 13/9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Belgian reference and Born as applied to claim 9 above, and further in view of Fisher.

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19. It would have been obvious to utilize a fabric banner for the same reasons as discussed above.

***Allowable Subject Matter***

20. Claim 10 (and 11-16 as dependent therefrom) are allowed.

***Response to Arguments***

21. Applicant's arguments filed July 17, 2003 have been fully considered but they are not persuasive.

22. Applicant argues that the Belgian reference does not show elongated flexible elements that are passable over a portion of a frame assembly and moveable relative thereto for opening the banner. However, the elongated flexible members 12 of the reference are indeed passable (able to be passed) over the frame and doing so would erect the banner into a viewable position. Additionally, such arguments refer to the method of using the sign, though only structure is actually claimed.

***Conclusion***

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on Tu-Th 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Joanne Silbermann  
Primary Examiner  
Art Unit 3611

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